

## Code of Ethics/Conflict of Interest Ordinance

### A. Definitions.

The following definitions shall apply to this Ordinance:

1. **Public Official** (or Public Office) (~~or Public Office~~). An elected or appointed official, whether paid or unpaid, full or part-time, of the Town of Southbury. This includes being a member or alternate member of any board, committee, ~~or~~ commission or agency that exists in the Town of Southbury government.

Formatted: Font: Bold, Underline

2. **Town Employee** (or Town Employment) (~~or Employment~~). A paid employee, full or part-time, of the Town of Southbury.

Formatted: Font: Bold, Underline

3. **Ethics Commission**. The Town of Southbury Commission on Ethics as authorized by Section 7-148h of the Connecticut General Statutes.

Formatted: Font: Bold, Underline

4. **Conflict of Interest**. A conflict ~~or potential conflict~~ of interest shall be deemed to exist if any Public Official or Town Employee has a ~~financial or personal interest, Direct Interest or an Indirect Interest~~ direct or indirect, in any purchase, contract, transaction, or decision involving his/her office, board, commission, agency or employment.

Formatted: Font: Bold, Underline

5. **Direct Interest**. An interest of a Public Official or Town Employee or any business, investment, or property in which such Public Official or Town Employee is an owner, member, partner, officer, employee or stockholder or has any other form of participation, that is a Financial Interest or an Adverse Interest in any purchase, contract, transaction or decision involving his or her office, board, committee, commission, agency or employment.

~~65. **Indirect Interest** An interest Public Official or Employee of a family member within the fourth degree by blood or marriage, friend, partner, or associate or a person engaged in a close business relationship with of a Public Official or Town Employee in any purchase, contract, transaction or decision involving the Public Official's or Town Employee's office, board, committee, commission, agency or employment which, if held by the Public Official or Town Employee directly, would meet the definition of a Direct Interest. ~~might influence a decision or event so as to achieve gain, financial or otherwise, on behalf of a family member, friend or associate or that creates an actual or perceived monetary or personal indebtedness to any party~~~~

Formatted: Font: Bold, Underline

Formatted: Font: Bold, Underline

76. **Financial Interest**. A Financial Interest shall be deemed to exist if a person or entity with a Direct Interest or an Indirect Interest as defined herein ~~Any Public Official or Employee~~ might, directly or indirectly, derive pecuniary or financial gain or suffer loss from any Town purchase, contract, transaction, ~~or~~

Formatted: Font: Bold, Underline

1 Working revision. Approved by Ethics Commission 9/22/2016/1/13/2017 NOT IN EFFECT

decision ~~involving his office, board, committee, commission~~ or employment ~~;~~ or

~~b. A business or professional enterprise in which such Public official or Employee has any interest as an owner, member, partner, officer, employee or stockholder or has any other form of participation that will be affected by the outcome of the matter under consideration.~~

~~876. **Adverse Interest.** ~~Personal Interest. A personal interest shall be deemed to exist if any such Public Official or Employee shall have an interest with a person involved in any such contract, transaction or decision by reason of:~~~~

Formatted: Font: Bold, Underline

~~a. Relationship within the fourth degree by blood or marriage; or~~

~~b. Close business relationship; or~~

~~c. An interest that is adverse to the interests of the Town with respect to the matter under consideration.~~

~~97. Material Conflict of Interest. A conflict of interest shall be deemed to be material where a reasonable person would conclude that the Financial Interest or Adverse financial or personal interest:~~

~~a. is incompatible, or would to a reasonable person appear to be incompatible, with the proper discharge of official duties; or~~

~~b. -would tend to impair, or would to a reasonable person appear to impair, independence of judgment and action in the performance of official duties.~~

## **B. Declaration of Policy.**

1. The proper operation of the government of the Town of Southbury requires that Public Officials and Town Employees be independent, impartial and responsible to the people; that governmental decisions and policies be made in the proper channels of the government structure and free from coercive or other improper influence; that Public Officials office and Town Employeesment not use their positions be used for personal gain; and that the general public have confidence in the integrity of its government.

2. This Ordinance sets forth standards of ethical conduct to maintain and enhance responsible and effective public service by our Public Officials and Town Employees in the performance of their duties.

2 Working revision. Approved by Ethics Commission 9/22/2016 01/13/2017 NOT IN EFFECT

3. In the interest of ensuring that concerns regarding possible conflict of interests are promptly raised, this Ordinance permits a concern that a conflict of interest may exist to be raised by any person, regardless of whether the person would be considered an aggrieved party as that term is interpreted under Connecticut law. Any failure to observe the procedures set forth in this Ordinance shall not, however, afford a basis for an action for damages against the Town, any Town board, committee, commission, agency or employee, or any member of any Town board ~~or, committee,~~ commission, or agency, or for challenging a decision, license, permit or other action of a Town ~~E~~employee, board, committee, ~~or~~ commission or agency or member of same by a person who would not, but for the provisions of this Ordinance, have standing to bring such an action.

### **C. Disclosure of Conflict.**

1. Any Public official or Town Employee who has a conflict or potential conflict of interest as defined herein, whether or not such conflict or potential conflict is material, shall disclose the interest causing such conflict or potential conflict in writing to the Board of Selectmen.

2. Any Public Official or Town Employee who is a member of any Town board, committee, ~~or~~ commission or agency who has a conflict or potential conflict of interest as defined herein, whether or not such conflict or potential conflict is material, shall, in addition to the disclosure required by this Ordinance, disclose the interest causing such conflict to such board, committee, ~~or~~ commission, or agency and such disclosure shall be recorded in the board's, committee's, ~~or~~ commission's or agency's minutes.

### **D. Determination of Materiality.**

1. In the event that a disclosure or a claim of a conflict of interest with respect to any Public Official or Town Employee has been made to the Ethics Commission, and the Public Official or Town Employee does not disqualify himself/herself from matters with respect to which the conflict of interest allegedly exists, the Ethics Commission ~~shall~~ promptly inquire into the facts of the matter and determine whether or not a conflict exists and if so, whether it is material.

2. In the event that a disclosure or a claim or a conflict of interest with respect to any Public Official or Town Employee who is a member of a Town board, committee, ~~or~~ commission or agency has been made to such board, committee, ~~or~~ commission, or agency and the member does not disqualify himself/herself from matters with respect to which the conflict of interest allegedly exists, the board, committee, ~~or~~ commission or agency shall forthwith determine by a majority of those members present, excluding the member whose interest is in question, whether or not a conflict exists and, if so, whether it is material.

3 Working revision. [Approved by Ethics Commission 9/22/2016 01/13/2017](#) NOT IN EFFECT

### **E. Disqualification.**

If it has been determined that a material conflict of interest exists, the Public Official or Town Employee who has the conflict shall be disqualified from discussing or acting upon any matter encompassed by that conflict of interest, and shall leave the room during any public hearing, discussions or deliberations regarding the matter. Any Public Official or Town Employee may disqualify himself/herself even though the conflict of interest is not material.

### **F. Claim of Conflict.**

If a formal written complaint is made to the Ethics Commission that any Public Official or Town Employee has an undisclosed conflict of interest, the Ethics Commission shall record and act upon the claim in accordance with its procedures as outlined in Section J.

### **G. Gifts and Favors.**

No Public Official or Town Employee shall accept or receive, directly or indirectly, anything of value (whether by rebate, gift, promise, obligation or contract for future reward or compensation or otherwise) for awarding or influencing the award of any decision, permit, license, contract or purchase order by the Town. Anything of value when in the form of a gift shall not be deemed relevant if the actual cost of that item is less than \$~~25.00~~10.00.

### **H. Representation.**

1. Without the prior written consent of the Ethics Commission, no Public official or Town Employee shall appear for compensation, except on behalf of the town, before any Town board or agency in which he/she was formerly employed or served as an official at any time within a period of one (1) year after termination of his/her service with the Town.

2. Without the prior written consent of the Ethics Commission, no current or former Public Official or Town Employee shall represent anyone other than the Town concerning any particular matter in which he/she participated personally and substantially while in municipal service.

3. No current or former Public Official or Town Employee shall disclose or use confidential information acquired in the course of and by reason of his/her official duties, for personal and/or financial gain for himself/herself or others.

4. No former Public Official or Town Employee who participated substantially in the negotiation or award of municipal contract or who supervised the negotiation

4 Working revision. ~~Approved by Ethics Commission 9/22/2016~~01/13/2017 NOT IN EFFECT

or award of such a contract shall accept employment with a party to the contract other than the Town for a period of one (1) year after such contract is signed.

### **I. Independent Contractors.**

Before hiring any consultant, independent contractor or other advisor, the Public Official, Town Employee, board, committee, ~~or~~ commission or agency that proposes to hire the independent contractor shall inquire whether the independent contractor has any conflict of interest as that term is defined in this Ordinance or as defined in any code of ethics or similar code applicable to the independent contractor. Any such conflict shall be specified in the appropriate Town records (such as minutes of any relevant board, committee, ~~or~~ commission, or agency). Prior to hiring any independent contractor with a conflict, the Public Official, Town Employee, board, committee, ~~or~~ commission or agency proposing to hire the independent contractor must make a determination that the conflict is not material and/or that despite the conflict, the independent contractor should be hired. The decision and the reasons therefore must be a matter of public record.

No consultant, independent contractor or other advisor of the Town shall represent a private interest in any action or proceeding against the interest of the Town which is in conflict with the performance of his/her duties as such consultant, independent contractor or advisor. No consultant, independent contractor or advisor may represent anyone other than the Town concerning any matter in which he/she participated personally and substantially as a consultant to the Town. Neither shall such consultant, independent contractor or advisor disclose confidential information acquired while performing his/her duties for the Town, nor shall he/she use such information for the personal and/or financial interests of himself/herself or others.

### **J. Procedure.**

All claims pertaining to a violation of this Ordinance shall be made, in writing, to the Ethics Commission in accordance with the rules and regulations promulgated by that Commission which shall be found in the Town of Southbury Ethics Commission Statement of Procedures. These rules shall require the Complainant to specify the facts that gave rise to his/her claim and the specific provision of this Ordinance that has been breached on a Form provided by the Ethics Commission. The Ethics Commission may, but is not required to consider claims made against individuals who are former Public Officials or Town Employees. Any allegations and any information learned, supplied to or received from or by the Ethics Commission shall remain confidential until a finding of Probable Cause is determined by the Ethics Commission.

The Ethics Commission is authorized to issue advisory opinions at its discretion.

5 Working revision. ~~Approved by Ethics Commission 9/22/2016~~01/13/2017 NOT IN EFFECT

## **K. Penalties.**

1. Any person who violates any of the provisions of this Ordinance may be censured or reprimanded or may be suspended or removed from Public Office or Town Employment, as the case may be, in the manner provided by law as recommended by the Ethics Commission with action by the Board of Selectman.

2. Any violation of this Ordinance shall render any purchase, contract, or transaction or any part thereof affected thereby voidable as recommended by the Ethics Commission with action by the Board of Selectmen.

3. Any violation of this Ordinance with respect to any decision of a board, committee, ~~or~~ commission or agency shall be subject to any remedies deemed proper as recommended by the Ethics Commission with action by the Board of Selectmen and permitted by law.

4 The penalties provided above are in addition to any other penalties provided by law to address violations of the provisions of this Ordinance.

## **L. Concurrent Offices.**

1. No Town Employee shall serve on any board, committee, ~~or~~ commission or agency to which the Town Employee reports or acts as staff, except as otherwise stated in the Town Charter or Ordinances. Notwithstanding the foregoing, a Town Employee may serve on any board, committee, ~~or~~ commission or agency in an advisory capacity.

2. Except as otherwise provided in the Charter or by Ordinance, the First Selectman, the Selectmen, the Town Clerk, members of the Board of Finance and members of the Ethics Commission shall hold no other Public Office, and the provisions of Section 9-210 of the General Statutes concerning incompatible Town offices shall apply to the officers described therein.

3. The restrictions set forth in Section L. 1 and Section L. 2 shall not apply to membership on any temporary or advisory only committee, task force, working group, or the like.

4. Subject to the restrictions set forth in applicable law, or by the Charter or by Ordinance, and in Section L. 2 of this Ordinance, nothing in this Ordinance shall prevent the appointment of the same person to more than one Public Office, provided the offices are not incompatible, provided the duties of the offices to which he/she is appointed may, in the opinion of the Ethics Commission, be satisfactorily fulfilled by one person, and provided further that inability to fulfill

satisfactorily the duties of all offices to which he is appointed shall be cause for removal from any one or more of said offices.

## **M. Meetings.**

1. Members Attendance. Public Officials who are members of boards, committees, ~~and~~ commissions, ~~and~~ agencies are expected to attend all meetings of such boards, committees, ~~and~~ commissions ~~and~~ agencies or attend meetings in accordance with the by-laws or other duly adopted rules of the group to which they belong, ~~if those by-laws exist~~. However, it shall not be deemed to be a violation of this Ordinance if Public Officials who are members of boards, committees, ~~and~~ commissions, ~~and~~ agencies comply with the standards set forth in Section 512 of the Town Charter. For the purposes of this Ordinance only, the attendance standards set forth in Section 512 shall apply to both elected and appointed members of boards, committees, ~~and~~ commissions ~~and~~ agencies.

2. Alternates' Attendance. Public Officials who are alternate members of ~~boards,~~ committees, ~~and~~ commissions ~~and~~ agencies are expected to attend all meetings of such boards, committees, ~~and~~ commissions ~~and~~ agencies, or attend meetings in accordance with the by-laws or other duly adopted rules of the group to which they belong, ~~if those by-laws exist~~. However, it shall not be deemed to be a violation of this Ordinance if Public Officials who are alternate members of boards, committees, ~~and~~ commissions ~~and~~ agencies comply with the standards set forth in Section 512 of the Town Charter. For the purposes of this Ordinance only, the attendance standards set forth in Section 512 shall apply to both elected and appointed alternate members of boards, committees, ~~and~~ commissions ~~and~~ agencies.

3. Voting. All Public Official members or seated alternate members of boards, committees, ~~and~~ commissions ~~and~~ agencies who ~~have not been disqualified~~ are qualified to vote, shall vote on all matters ~~for which they are qualified to vote~~ upon which a vote is held by such board, committee, ~~or~~ commission ~~or~~ agency unless there shall be reasonable cause for abstention and said cause is stated and recorded in the minutes of the meeting.

4. Statement of Reasons. In every case where the action of any board, ~~commission and committee~~ committee, commission or agency is subject to a right of appeal to another administrative body or to the courts of the State of Connecticut, a statement of the reasons for its action shall be included in the minutes of the meeting.